

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Terry K. Breaux,

Case No. 24-CV-3979 (JRT/DJF)

Plaintiff,

v.

ORDER

Ti-Zack Concrete Inc.,

Defendant.

This matter is before the Court on Plaintiff Terry K. Breaux’s Amended Complaint (ECF No. 3) and Application to Proceed in District Court without Prepaying Fees or Costs (“IFP Application”) (ECF No. 2). As Mr. Breaux is a pro se litigant, the Court construes his filings liberally. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Accordingly, the Court construes his Amended Complaint as a Motion to Amend the Complaint. Rule 15(a)(1) of the Federal Rules of Civil Procedure allows a party to amend his complaint once (and only once) as a matter of course. The Court therefore grants the Motion. The Amended Complaint is now the operative pleading in this matter.

ORDER

Based on the foregoing, and on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED THAT:**

1. Plaintiff Terry K. Breaux’s Motion to Amend the Complaint (ECF No. 3) is **GRANTED.**
2. The Court directs the Clerk of Court to refile Plaintiff’s Motion to Amend the Complaint (ECF No. 3) as his Amended Complaint.

2. Mr. Breaux's application to proceed *in forma pauperis* (ECF No. 2) is **GRANTED**.
3. Mr. Breaux must submit a properly completed Marshal Service Form (Form USM-285) for the defendant. If Mr. Breaux does not complete and return the Marshal Service Form within 30 days of this order, it will be recommended that this matter be dismissed without prejudice for failure to prosecute. A Marshal Service Forms will be provided to Mr. Breaux by the Court.
4. After the return of the completed Marshal Service Forms, the Clerk of Court is directed to seek waiver of service from defendant Ti-Zack Concrete Inc., consistent with Rule 4(d) of the Federal Rules of Civil Procedure.
5. If the defendant fails without good cause to sign and return a waiver within 30 days of the date that the waiver is mailed, the Court will impose upon that defendant the expenses later incurred in effecting service of process. Absent a showing of good cause, reimbursement of the costs of service is mandatory and will be imposed in all cases in which a defendant does not sign and return a waiver of service form. *See Fed. R. Civ. P. 4(d)(2).*

IT IS SO ORDERED.

Dated: October 31, 2024

s/ Dulce J. Foster

Dulce J. Foster
United States Magistrate Judge